IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16563 of 2004

Between:

Rayana Appaji, S/o Rambabu,
R/o 4-1-18, T.P.Road, Vijayawada-9, Krishna District

..... PETITIONER

AND

1 The Commissioner, Endowments Department, Hyderabad
2 The Deputy Commissioner, Endowments Department, Kakinada
3 The Assistant Commissioner, Endowments Department, Vijayawada
4 The Trust Board Chairman, Sri Veeranjaneya Swamivari Devasthanam, Tammina Potharaju Road, Anjaneya Vaagu Centre, Kothapet, Vijayawada

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ, Order or direction preferably a writ in the nature of Writ of Mandamus, declaring the notice dated 30-08-2004 issued by the 4th respondent as being illegal, arbitrary, violative of Articles 14 and 19 of the Constitution of India and consequently, direct the respondents not to dispossess the petitioner from the existing shop situated in the 4th respondent Temple.

Counsel for the Petitioner :MR. V.SUBRAHMANYAM

Counsel for the Respondents : GP FOR ENDOWMENTS, RR 1 to 3

Counsel for the 4th respondent : Mr. V.S.R. Anjaneyulu

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16563 OF 2004

ORAL ORDER :

This writ petition is filed seeking a declaration that the Notice dated 30-08-2004 issued by the fourth respondent – The Trust Board Chairman of Sri Veeranjaneya Swamivari Devasthanam, Kothapet, Vijayawada as arbitrary and illegal and for a consequential direction to the respondents not to dispossess the petitioner from the existing shop situated in the fourth respondent temple.

The petitioner claims to be a petty business man. It is stated that he was granted lease in respect of the aforesaid premises belonging to the fourth respondent temple by private negotiations and the same was approved by the Commissioner of Endowments. It is not in dispute that as per the lease agreement dated 16-6-2001 the lease was for a period of three years and it has already expired. In pursuance thereof, the impugned notice dated 30-08-2004 has been issued by the fourth

respondent temple stating that though the period of lease expired by 31-10-2003, the petitioner failed to vacate the premises and therefore calling upon him to hand over the possession to the fourth respondent temple failing which necessary action will be taken under provisions of The A.P. Charitable & Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act') for recovery of possession. The petitioner did not dispute the fact that the period of lease has already expired. However, the case of the petitioner is that subsequently the Chairman of the fourth respondent temple entered into an agreement dated 16-06-2001 whereunder it was agreed to extend lease subject to the condition that the petitioner constructs two more rooms for the purpose of accommodating the Archakas of fourth respondent temple. The petitioner states that in pursuance of the said agreement, he has constructed the rooms and therefore he is entitled to continue in possession, however, the fourth respondent has been taking steps to dispossess him without following due process of law. Hence, this writ petition contending that the action of the fourth respondent is arbitrary and illegal.

I have heard the learned Counsel for the petitioner and the learned Counsel appearing for the fourth respondent and perused the material on record.

As can be seen from the agreement of lease, dated 31-10-2000 as approved by the Commissioner of Endowments, the lease was for a period of three years and the period of lease has already expired. Though the petitioner claims that the Chairman of fourth respondent Temple has subsequently entered into an agreement with him for extension of lease, nothing has been placed before this Court to substantiate the said plea. It is also relevant to note that any lease in respect of the immovable properties of the endowment, the approval of the Commissioner of Endowments is necessary and in the absence of any such approval, the petitioner cannot claim any right to continue in possession as lessee of the fourth respondent temple.

In the absence of any extension, on expiry of the period of lease, the action of the fourth respondent in calling upon the petitioner to vacate the premises in his occupation cannot be found fault with.

Under the impugned notice, the petitioner was called upon to hand over possession failing which necessary steps will be taken following the procedure contemplated under the Act. Absolutely, no case is made out to show that the said notice is in contravention of any statutory provision. In the circumstances, no relief can be granted, thereby restraining the respondents from taking further steps in accordance with law.

Accordingly, the Writ Petition is dismissed. No costs.

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10th November, 2004.

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To

1 The Commissioner, Endowments Department, Hyderabad
2 The Deputy Commissioner, Endowments Department, Kakinada
3 The Assistant Commissioner, Endowments Department, Vijayawada
4 The Trust Board Chairman, Sri Veeranjaneya Swamivari Devasthanam, Tammina Potharaju Road, Anjaneya Vaagu Centre, Kothapet, Vijayawada

5. 2 CCs to G.P. for Endowments, High Court of AP Bldgs, Hyderabad (OUT).

6. 2 CD copies.